



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,658	09/19/2003	James E. Hessert	80551-0004	8976

21454 7590 11/01/2007
GARY PETERSON
211 N. ROBINSON AVE.,
SUITE 450
OKLAHOMA CITY, OK 73102

EXAMINER

BATES, ZAKIYA W

ART UNIT	PAPER NUMBER
----------	--------------

3676

MAIL DATE	DELIVERY MODE
-----------	---------------

11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/666,658	Applicant(s) HESSERT ET AL.	
	Examiner /Zakiya W. Bates/	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2007.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47,59-61 and 63-74 is/are pending in the application.
 4a) Of the above claim(s) 66 and 68 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 47,59-61,63-65 and 69-74 is/are rejected.
 7) ☒ Claim(s) 67 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 47, 59-61, 63-65, 72, 73, and 74 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al. (US 5,224,546).

Smith et al. discloses a method that includes, with respect to claim 47, a method for removably plugging ~ a wellbore of an oil or gas well to be abandoned, wherein the well defines ~ the wellbore and wherein the method comprises the step of forming a plug within the wellbore, the plug being removable from the wellbore by circulating fluid [with oxidizing agent] through the wellbore, in which the plug comprises: a gel structure comprising at least one crosslinked polymer [at least poly acrylamides, celluloses, etc.]; and a swelling agent [at least acrylamides, polyacrylamides, acrylates, cellulose derivatives, etc.] receptive to substantial hydration. With respect to claims 72 and 73, the reference discloses a method for removably plugging a wellbore of an oil or gas well to be abandoned, wherein the well defines the wellbore and wherein the method comprises the step of forming a plug within the wellbore, the plug being removable from the wellbore by circulating fluid selected from the group consisting of water, drilling mud and oil through the wellbore, the fluid further comprising an oxidizing agent. With respect to claim 74, the reference discloses a method for removably plugging the

Art Unit: 3676

wellbore of an oil or gas well to be abandoned, wherein the well defines a wellbore and wherein the method comprises the step of forming a plug comprising a polymer within the wellbore, the plug being removable from the wellbore by circulating fluid through the wellbore.

See the entire document, especially col. 3, line 10 - col. 4, line 68, and col. 6, line 18-37.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 69-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. in view of Johnston (US 3,958,638).

Art Unit: 3676

Smith et al. teaches the method as stated above, and includes a delaying agent (chelator). However, the reference fails to teach encapsulating the swelling agent as called for in the claims.

Johnston teaches a method of treating a formation that includes encapsulating an agent for the purpose of delaying the reaction between the downhole materials. See the entire document, including col. 6, lines 6-46.

It would have been considered obvious to one of ordinary skill in the art at the time the invention was made to have encapsulated the swelling agent of Smith et al. in view of Johnston in order to delay the reaction between the downhole materials.

Allowable Subject Matter

6. Claim 67 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3676

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Zakiya W. Bates/ whose telephone number is (571) 272-7039. The examiner can normally be reached on Monday-Friday, 8:30 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on (571) 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Zakiya W. Bates/
Primary Examiner
Art Unit 3676

zb
October 24, 2007